

Rights of Street Children – A Socio-Legal Issue

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ABSTRACT

India is a country rich for its tradition, history, architecture, and variety of delicacies. But there is always a flip side to a coin and on the negative side, if India is well known for something, it is poverty. Poverty is a subject that the citizens of India are well versed with because most of the citizens of India are going through the same. The country has been stigmatized with poverty and unfortunately, there is no sign of it eradicated. This very article deals with a subject matter which is very synonymous with poverty or is the very product of poverty. It is a major socio-legal issue that country has been a witness from time immemorial and unfortunately, nothing has changed ever since then even with the prevailing legislation. The topic we are talking about is the rights of street children. Before diving deeper into the very topic, first what is the very meaning of the term “socio-legal issue”?

If we see the term on the face of it, these are the issues that draw a nexus between the society and legislation of the country. Basically, socio-legal issues are the issues that the society is facing on the continuity and it has the umbrella of law but the law is not being complied with. Hence, there is no personal agenda neither a private individual is involved. In a socio-legal issue, the entire society's interest is taken at large since the entire society's interest is being hampered collectively. The rights of the street children is a socio-legal issue because the very right of the children are at stake and it is very comprehensible and translucent that this problem is very much present and no legislation is stern enough to prevent the exploitation of street children since we find them on every corner of the street fending for food and shelter.

The issues relating to street children can be studied from various perspectives like Child Protection Law, Directive Principles, Fundamental Rights, and Human Rights under the Indian Constitution. Other acts are aiming and striving to mitigate the sociological and economic losses caused to children at a very tender age or under-aged children is the Juvenile Delinquency Act.

This paper will be strictly concentrating on the types of street children and the mishaps they deal with on an everyday basis. Alongside this, the paper will be dealing with various legislations in India aiming to protect the rights of the street children and various NGO's and other organizations attempting to protect the street children from various kinds of exploitations. Lastly, the paper will deal with the further steps that can be taken to make sure the enforceability of the laws protecting the rights of the street children.

INTRODUCTION

Before going to an in-depth exploration of the topic, first, it is paramount to be aware of the very meaning and ambit of the term “street children”. Street children are not a term, it is more of a status of those children who experience poverty due to homelessness and the very cause of homelessness is that they were subjected to abandonment by their parents because of poverty and were either left homeless or sold for exploitation. They generally live in the street and fend for themselves by surrendering themselves to be subjected to some burdensome work in order to earn some living out of it. The policymakers of the UNICEF have defined street children who range below the age of eighteen years and make their livings in the very street.

In advanced countries, there is another subcategory of children called destitute children who are basically that category of children who are thrown out of their house by a single parent or are forced to leave their houses by the single parent. This category is very similar to the street children since they are also forced to make a living in the street. Street children are heavily subjected abuses, exploitation and neglect, and in the most extreme case, murder.

There is this saying “criminals are not born, they are made”. Similarly, children are not born as street children; they are molded into due to the negligence of the society. Basically, street children are a product of the extreme negligence of society. There have been several instances where well educated and affluent members of the family decide to abandon their children even before the time the child can build a sense of consent and understanding. In India, it is a very common sight to see children begging for money and other essentials or selling goodies to earn minute livings in places like bus stops, main roads, and railway stations. The famous case of *Olga Tellis*¹ speaks loudly about the society’s responsibility where an organization filed a case against the Bombay Municipal Corporation for dislodging the children in one night thus neglecting the essentials arrangements required for such eviction. The Supreme Court very rightly pointed and called out this action of the corporation towards the underprivileged section of the society. In the case of *Bandhu Mukhti Morcha*², another voluntary organization was subjected to a suit against them for forcing street children to indulge in forced labor³.

¹ *Olga Tellis and Ors. v Bombay Municipal Corporation*, 1986 A.I.R. 180(India).

² *Bandhua Mukhti Morcha v Union of India and Ors.*, 1984 A.I.R. 802(India).

³ *M.C Mehta v Union of India and Ors.*, (1996) 6 S.C.C. 756(India).

The street children or any other section synonymous to this category are the most visible sections of the society since they are easily traceable as they make their living and earning in the street. They are present everywhere and one can inarguably say that people come across them every time of the day. Ironically, when it comes to their protection and enforcement of their rights under the very roof of law, they become the most invisible or inconspicuous group. It is ironic how we get to see their struggle as it is so much in our faces but still cannot make an effort to protect them. One of the main issues street children face is the demonization or detachment from the mainstream society and a victim to criminal behavior.⁴

Interestingly, surveys have found that most of the children are not orphans; they have been just subjected to abandonment by their parents. Many have run away from their houses since they were subjected to extreme physical and psychological torture by their family. Once they are on the street, they are just like any other group of people because they are under aged and cannot form a matured opinion as to how to go about dealing with various situations. The most saddening part is that the street children are not only subjected to abuse and crime by various organizations but also by the police who supposedly should be the law keepers of our countries⁵. There are various reasons why street children's rights have not been given much substance since most cases are not taken in the first place. There are hardly any cases that come to the doorsteps of the court. Before filing a case, these children are driven out of city limits and left there to starve⁶.

The United Nations Organisation's declaration of Human Rights was the first proper body to come to the aid of the street children and come out with proper solutions. The United Nations Human Rights Council builds the very framework to deal with the seriousness of this socio-legal issue and urged several nations to adopt the policies, rules, and regulations for the implementation of these policies to fight for the rights of this category. This effort brought results to some extent and was applauded which helped the children living on streets and fending for themselves in India and also caught the attention of various powerful nations. This led to drawing up of several guidelines and several policies to protect and preserve the rights of the needy. Many nations, India being one of them, have taken these guidelines and policies seriously and have aimed at following them no matter what.

⁴ Ashoka Kumar Thakur v Union of India and Ors., Writ Petition(civil) 265 of 2006(India).

⁵ R.D Upadhyay v State of Andhra Pradesh and Ors., Writ Petition(civil) 559 of 1994(India).

⁶ Labourers Working On Salal Hydro Project v State Of Jammu And Kashmir (1984) 3 S.C.C. 538(India).

The Directive Principles⁷ of State Policies in Part IV⁸ of the Indian Constitutions and the Fundamental Rights⁹ under Part III¹⁰ of the Indian Constitution provided for the protection of children and also mentions the duty of the Government, both Centre, and State, to take important steps for growth and encouragement of these sections. Apart from these, there are several other laws that prioritize the need, scope, study, and analysis and also deal with the problems of street children.

ISSUE 1: CATEGORY OF EXPLOITATION'S AND THE REASON BEHIND THE NEGLECT

The main cause behind the rapid exploitation of street children is the displacement of street children due to rapid urbanization in developing countries. Once they are displaced, they are left to the street homeless with no guardianship and shelter. This makes them extremely vulnerable, resulting in them succumbing to their surroundings and letting them get exploited by various private individuals for their selfish purposes. Hence, a study was conducted in the city of Varanasi to examine the situation of the street children and the Non-Governmental Organizations were contacted who worked towards helping the street children. A total of four hundred fifteen children were interviewed and it was discovered through results that all forms of abuse were inflicted on them out of which physical abuse was about 74% which was the highest and 25.5% by the police. So, this clearly portrays how street children are subjected to exploitation in the worst ways possible and how the law keepers who are supposed to protect them, are the ones inflicting pain on them. This issue will discuss category exploitation of street children and the reason for the neglect.

(1.1) Types of exploitations

1. Child Labour:-

Taking into consideration the 2011 Census, India has a total number of 10.1 million child laborers out of which a whopping 5.6 million are boys and 4.4 million are girls. If we take global statistics, there are a total of 152 million child laborers out of which 88 million are boys and 64 million are girls which makes it approximately one in ten of all children globally¹¹. The factors leading to child labor are various, namely poverty, lack of proper and viable working opportunities for the adults,

⁷ Kasturi Lal Lakshmi Reddy v State Of Jammu And Kashmir and Ors., 1980 A.I.R. 1992(India).

⁸ Central Inland Water v Brojo Nath Ganguly & Anr., 1986 A.I.R. 1571(India).

⁹ A.R. Antulay v R.S. Nayak & Anr., 1988 A.I.R. 1531(India).

¹⁰ Delhi Transport Corporation v D.T.C. Mazdoor Congress, 1991 A.I.R. 101(India).

¹¹ A. Seshapathi v The Divisional Manager, 1996 (1) ALT 491(India).

migration, displacement but the most important factor is street children who have been abandoned on the streets¹².

Street children are children who are usually below 18 years and are at a very tender age of their lives¹³. At this age, they have the right to attend school rather than being compelled to indulge in labor work. Child labor is a very important factor that deprives these children of their rights to education and injects the sense of poverty in them.

Apart from education, employing street children in child labor causes a huge degradation in the physical and mental health of the children. Often in child labor, the children are overloaded with work which goes beyond their physical prowess resulting in the injury of the child. Apart from the health of the child, child labor causes a huge negative impact on the economy of the country. Child labor is also synonymous with the term child abuse. Basically, child labor leads to child abuse. Street children who are trafficked are subjected to sexual, emotional, and physical abuse. These trafficked children are subjected to activities that go beyond their wills like illegal adoption, forced marriage, and prostitution. These street children often become most prone to HIV.

2. Bonded Labour:-

Bonded labor is basically defined as the labor done by children to pay off the debts inherited by their fathers. According to recent studies, there are around 40 million people who are a victim to the slavery of which 10 million are children.¹⁴ Out of this 10 million, the majority of them are street children. Street children usually have not built the capability of giving consent and understanding the gravity of work they are told to do mostly because they are forced to do it and hence this leads to fraudulent work agreements resulting in exploitation like slavery¹⁵. Under bonded labor, the work done by the children to pay the debt of their father could continue for several years making the child work from a very tender age. A report suggested that nearly 53% of the children were subjected to slavery for 10 years or more. Children of the State who were subjected to bonded labor ranged from the age of 6 to 16 years formed a portion of 10% of the bonded labor. The main issue with bonded labor is that it exists for such a long time that it basically forms into slavery as the debt is larger as compared to the income.

¹² Master Zubeen v Principal Judge, A.I.R. 1994 All 147(India).

¹³ Ankur Tripathi Alias Tinnu v Sri Radhey Shyam Pandey and Ors., A.I.R. 1994 All 250(India).

¹⁴ Management Of Bharatkala Kendra v R.K. Baweja And Anr., 1980 (41) F.L.R. 390(India).

¹⁵ Public Union For Civil Liberties v State Of Tamil Nadu and Ors., Writ petition (civil) 3922 of 1985(India).

3. Children Used for Sexual Exploitation:-

Street children are often subjected to several types of abuse like emotional, social, and physical abuse but one of the most lethal forms of abuse they are subjected to is sexual abuse. Sexual abuse itself has various forms which include incest, sexual assaults, exposure of indecent acts, and child pornography. According to the recent census, out of all the forms of abuse faced by the street children, sexual abuse ranges as high as 15%. Due to these sexual abuses, street children are extremely vulnerable to diseases like HIV.

(1.2) Reason behind the neglect

The reasons behind the neglect of the street children are plenty. There are various causes why there is such a major chunk of children on street fending for themselves at such a tender age and sleeping and sheltering in the places where they work and not having particular and definite homes. The reasons are extreme poverty, uncontrollable family population, and large magnitude of poverty and absolutely no care of children while they are in their growing age. The services reserved for poorer sections of the society are also very abysmally utilized. In large cities, the problem of street children is much greater in magnitude as compared to the small cities. Children abandoned to streets or displaced due to disasters become prone to HIV and other lethal diseases because the hospitals and care centers refuse to take them for treatment or rehabilitation. If we take statistics into consideration, approximately 440 million children are born every year from which as far as 40% of children are born with poverty and difficult circumstances. Out of twenty-seven million babies born every year, the greater part of them are born in the underprivileged part of the society. Thus, the majority of these children are born under circumstances of poverty and hence, when the parents cannot afford their living, they abandon them or sell them to some organization. These children do not get proper nutrition which a child should ideally get in their age and they often succumb to death after suffering from deadly diseases. The Indian Child Abuse Neglect and Child Labour (ICANCL) which is an organization that aims at protecting children from all kinds of abuse should also aim at including the proper nutrition under the propaganda of protection. The reason being, the children who belong and live on streets are of very tender and delicate age and at this age, they require proper nutrition to build the base of a proper and healthy lifestyle. Merely protecting a child from abuse is not enough. He or she needs to be looked after and provided with important essentials so that the growth is proportionate.

ISSUE 2: LAW PROVISIONS DEALING WITH PROTECTION OF STREET CHILDREN

From the above discussions, it is very clear that the issue of street children and protection of their rights is a global problem and it not only exists in India but in other countries growing economically and socially and the developed countries as well. Since the degree of the problem is at a universal level, the I.L.O (International Legal Organization) and United Nations have attempted to analyze the situation in dept and at large and has initiated certain steps for its member to follow and abide by. Although these steps have come in handy, there is still a lot of work that needs to be done since they are also human and form a considerable part of the population.

Human Rights are the highest degree of rights. Section 2(1) (d) of the Protection of Human Rights Act 1993 defines Human Rights as “the right relating to life, liberty, equality and dignity of individual guaranteed under the Constitution and enforceable by the Courts.” The definition under this section is not exhaustive in nature and is applicable beyond the territory of India in like the Universal Declaration of Human Rights 1948, the Geneva “Red Cross” Convention, 1949, etc.

The United Nations Universal Declaration of Human Rights (U.D.H.R) under Article 1 states that “all human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood”

(2.1) The Universal Declaration of Human Rights, 1948 (U.D.H.R)

Article 1 of the U.D.H.R states that “all humans are born free and equal in dignity and rights.” Hence, all humans include the likes of street children also. Hence, all the children who are abandoned in streets are born free and cannot be forced to any kind of labour nor cannot be subjected to any kind of abuse where their rights and dignity are damaged. Article 3 states that “everyone has the right to liberty, life, and security of person.” Street children, therefore have the right to liberty, life, and security of person. They have the right to live a proper and dignified life without any hindrance or restrictions. Unfortunately, most of the streets children are subjected to various kinds of abuses while it is clearly stated under this article that every human being has the right to security of person.

Article 4 states that “No one shall be held in slavery, or servitude, and slave trade should be prohibited in all forms.” This article is one of the most important articles protecting the rights of all the vulnerable groups from any kind of slavery. From the above discussion, it is very clear how often the street children are exploited for slavery especially in the case of bonded labor. They indulge in the labor to pay off the debts of their father but the debts are so large that they end up working for a large span of time thus making them a slave. Hence, they should be provided protection under this article of U.D.H.R.

Article 23 of the U.D.H.R states that “Everyone has the right to work to free choice of employment, to just and favorable conditions of work and to protection against unemployment.” This article entirely protects the right of every person to work in accordance with their choice in a proper environment. As discussed earlier, it is seen how street children are forced to indulge in all varieties of child labor in places whose prevailing conditions are harmful and hazardous to health. Hence, these children should be protected under the umbrella of this article.

Article 26(1) states that “Everyone has the right to education. Education shall be free in elementary and fundamental stages.” Almost the entire population of the street children are devoid of education. At the tender age, they are employed to child labor while they have the right to education. This article does not discriminate between classes of people. Hence, it is vivid that every person, including the street children, is very well entitled to an education. Not only that, but they are also entitled to free education as they are at the elementary stage of their lives.

(2.2) The United Nations Conventions on the Rights of The Child (U.N.C.R.C)

The U.N.C.R.C that was ratified by the member nations on 20th November 1989 and came into effect on 2nd September 1990 was formed to deal with child-specific rights. It stated that a child until he or she attains the age of majority will come under the ambit of the term “human beings”. It keeps the best interest of the child as the major priority and deals with custody and guardianship laws of the children who are subjected to abandonment or whose parents are no more alive.

These rights include basic rights, the right to be raised by parents, and have a parent-child relationship and right to life. The category of children it protects are:-

Migrant children, homeless children, orphaned and abandoned children, street and runaway children, child beggars, working children, trafficked children, children of prostitutes, children affected by conflicts, children in jail, children affected by AIDS and children affected by natural disaster.

(2.3) Constitutional and Statutory Provisions

The above discussed were the international organizations and their laws protecting the rights of the vulnerable children in general and street children in particular. Along with this, the Indian Constitution provides several legislations that protect these vulnerable sections of society. Under Article 21¹⁶, the State is bound to provide compulsory and free education of the age 6 to 14 years. Article 21¹⁷ forms one of the basic structure of the Indian Constitution¹⁸. Interestingly, as per statistics and from the above discussions, the majority of the street children belong within the range of 6 to 14 years. Hence, they should be provided with free education instead of indulging in any kind of forced labor as it is their basic Fundamental Right.¹⁹

Article 24²⁰ states that no child below the age of 14 shall be employed in any factory or mine or engaged in any hazardous work. Ironically, despite such shield of legislation, most children from the streets are picked to work in such conditions as mentioned under Article 24 who range below 14 years²¹. While the legislation is crystal clear, the implication is absent. Street children should be protected from such hazardous employment.

Article 39(f)²² states that children should be provided with opportunities and facilities to be developed in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral and material abandonment²³. The majority of the street children, in spite of such legislation in force, are the very result of abandonment. Street children are not born in the streets; they are abandoned to streets and grow in very harsh conditions. They are exposed to tremendously bad health conditions since they make their living and food out of stale food from garbage and reside in very untidy places. Therefore, although the article state that

¹⁶ INDIAN CONST. art 21.

¹⁷ Maneka Gandhi v Union Of India, 1978 A.I.R. 597(India).

¹⁸ A.R. Antulay v R.S. Nayak and Anr., 1988 A.I.R., 1531(India).

¹⁹ Unni Krishnan, J.P. and Ors. v State Of Andhra Pradesh and Ors., 1993 A.I.R. 2178(India).

²⁰ INDIAN CONST. art 24.

²¹ People's Union For Democratic v Union Of India and Ors., 1982 A.I.R. 1473(India).

²² INDIAN CONST. art 39(f).

²³ Srirama Babu v The Chief Secretary to the Government of Karnataka, 1998 (1) KarLJ 191(India).

children should have ample opportunity to develop in a healthy manner and should not be abandoned, the reality is entirely the opposite.

Article 51A(k)²⁴ of the Indian Constitution lays Fundamental Duty on every citizen of India who is a parent or a guardian to provide opportunities to provide education to their child from 6 to 14 years. Hence, the parent who abandons their children to the streets can be held accountable for violation of their Fundamental Duties under the Indian Constitution²⁵.

Article 14, which forms a part of the basic structure of the Indian Constitution, states about Right to Equality. Street children are in no manner treated equally. Street children generally belong to the tender age when generally a child goes to school. Hence, while this vulnerable group of children is forced to work in a hazardous situation, they should be equally treated like the other children who are provided with education and treated humanely. The street children are also liable for protection under Article 15 which prohibits discrimination on any grounds.

Article 23²⁶ provides the Right to be protected from being trafficked and from bonded labor. As discussed earlier, street children are most frequently subjected to trafficking and bonded labor and street children are trafficked in various ways be it prostitution, child labor, factory works, etc. Also, street children are majorly indulged forcefully in bonded labor to recover the debts of their fathers. Now, children performing the acts under bonded labor are of very tender age, and asking them to recover such huge debts is excessive in nature and most of them fail to do so leading them to long term slavery. Hence, this should be prevented as it violates Article 23 of the Indian Constitution²⁷.

Hence, there are several national and international organizations protecting the street children from the likes of abandonment, abuses, and exploitation but unfortunately, the problems faced by these street children are very much existing and there has been barely any decrease in the magnitude of these problems. Hence, it is very clear that these legislations are being violated on a daily basis and no one is paying heed to it which is resulting in mass torture and exploitation of street children.

²⁴ INDIAN CONST. art 51A(k).

²⁵ Society For Un-Aided Private School Of Rajasthan v Union of India & Anr., Writ Petition No. 95 of 2010(India).

²⁶ INDIAN CONST. art 23.

²⁷ Sanjit Roy v State of Rajasthan, 1983 A.I.R. 328(India).

ISSUE 3: ROLE OF JUDICIARY, NGO AND POLICE IN PROTECTION OF STREET CHILDREN

The Juvenile Justice Act 2015 (Care and Protection of Children) is concerned with children in two broad classifications: those who are in dire need of care, protection, and shelter, and those who stand in the difference in opinion with the law. Children in the streets may fall under both categories simultaneously, as children who are not provided with care and protection may end up in disagreement with the legal system.

(3.1) Role of Judiciary

The Seventh five-year plan (1985-90) aimed at taking forward the plan of development and survival of children in every sphere of life and promoting it. This thus led to kick-starting the plan by the judiciary and the Supreme Court who played an active role in endorsing the rights of the children, provided to them by the constitution of India²⁸. Social Action Litigation acts as a catalyst for judicial intervention and policy formulation.²⁹ The concept of ‘Social Interest Litigation’ in India is basically treated as an instrument for fastening socio-economic justice for the underprivileged and ensuring an action to make everyone realize what are the constitutionally guaranteed rights³⁰. Here are the few most important scenarios depicting social action litigation for children are the following cases; these cases have indeed proved to be absolutely vital in assuring and ensuring child rights³¹.

(3.2) Role of Non-Governmental Organizations

According to Chikarmane, “street identity is created by the media and social work interventionists”. Whether the presence of their middlemen cut the right of these children to create their own identities is an arguable issue. A contradictory theory maintains that these impoverished children gain moral support from social work mediation, helping them to feel that they “belong”, that they “exist” in this society, basically that this society belongs to them.

UNICEF estimated that there are at least 100 million, street children, all over the world and when it comes to India, it is a home estimated to have a range from 400000- 800000, the majority of which belong below the age of 18 years. Children in India come from various castes, cultures, religions, communities, and economic groups.

²⁸ Shyamlal Lajwanti Devi Kukreja v The State of Madhya Pradesh, Writ Petition No. 2450 of 2012(India).

²⁹ CPIO, The Supreme Court of India v Subhash Chandra Agarwal, Civil Appeal No. 10044 of 2010(India).

³⁰ Little Angels Shiksha Samiti Thr v The State of Madhya Pradesh, Writ Petition No. 2450 of 2015(India).

³¹ M/S G.S. Convent School v State of Uttar Pradesh, Writ Petition No. 4400 of 2019(India).

The issues regarding these children have grown from the very bottom to the top, earlier people were not aware of it. There are various NGOs working for this sector of children day and night in a qualitative way includes—NHRC, NCPCR, CLAN, CRY, GRACE, etc. Each of these platforms works differently but they all focus on the same motive.

The media has always been a backbone and has played a very vital role in molding public opinion as well as making an attempt in creating awareness to the citizens regarding social development and child rights protection. The Government of India and UNICEF cooperative inventiveness over the times that have gone by have shifted their attention on intensifying the power and the need of advertising and broadcasting the electronic and print media person in Ministry of Information and Broadcasting so as to combine and print the various problems regarding the rights of the children on the street. As a result, media has had a massive impact in creating awareness amongst the people in these strata.

(3.3) Role of Police – Negative and Positive

“There’s more to this than meets the eye”, you might have come across this proverb many a time. Exactly when we come to talk about the experiences of the Street children in our Justice system, the situation is not as simple, not as easy as it seems to be.

Taking into consideration the experiences of the children at the various stages of our Justice System:-

- Role and conduct of police and private security guards on the streets:-

It includes optimistic experiences, a perception of the police understanding the need and possibilities for constructive cooperation with the police³². However, it mainly hovers around the various types of abuses, both physical and mental, and the lack of the system to take up complaints on these matters.

After a study done with the street children, it is clearly depicted the level up to which the children in the street have with the police and the security guards who are supposedly the abiders of the Justice System³³. There have been a lot of experiences with the children relating to harassments, threats by police, and by other members of the society with either direct or indirect encouragement of the

³² Raksha Jindal v Central Bureau Of Investigation, Criminal Appeal No. 124 of 2013(India).

³³ P.A. Inamdar and Ors. v State Of Maharashtra and Ors., Civil Appeal No. 5041 of 2005(India).

Police³⁴. The Police are therefore responsible on both sides i.e. of commuting this grievous offence and also for failing to prevent the children who fall in this trap. They fail to do their duty being a part of this Justice System who promises to provide Justice to these street children and despite making sure that they feel like home in this society, they never fail to show them that they are not a part of us, they are homeless.

In Nepal, Most children reported that policemen are the huge troublemakers in their lives”; One of them said in an interview- “While staying on the streets I have known a lot of hardship, but the worst was when I had to go to sleep on an empty stomach and got beaten up by the ‘dadas’ (bullies) and policemen. So where is this Justice system taking us? Is this for our good? Or is this just the wrong use of power that has been vested to our officials which they fail to use it in the right path.

Another experience said- The most common and pervasive form of abuse street children experience is by the police. They force them to clean the stations, they beat them, they take money from them, and they torture them into confessing to crimes or to name who committed them. This is a confession of a street child in India who was asked to speak about their connection with the Police.

“Every fish in the pond is not same” Similarly not all policemen are bad, said by a child in Gautemala - “There are some good police, but most of them are bad. They get a kick out of hurting us.

Thus there are various kinds of tortures meted out to the Children by the Police which can be shown by some of the experiences by the street children such as:-

1. Violence:-

With the use of power, most of the policemen torture the street children³⁵ – physically, mentally, psychologically and do sexual violence. Few statements of children are as follows:-

“When a girl is almost grown up, she gets molested or raped in exchange of her freedom.”

“I want to be a policeman so I can beat others just as they beat us.”³⁶

Lack of education, training, upbringing, no screening process in recruitment and many other factors contribute to this treatment by the police and security guards.³⁷

2. Death Squad Experiences :-

³⁴ S.P. Gupta v Union Of India and anr., Civil Transfer case 19 of 1981(India).

³⁵ State Of Maharashtra and ors. v Bhaurao Punjabrao Gawande, Criminal Appeal No. 417 of 2008(India).

³⁶ Khedat Mazdoor Chetna Sangth v State Of Madhya Pradesh, 1995 A.I.R. 31(India).

³⁷ Tehseen S. Poonawalla v Union Of India, Writ Petition(civil) No. 754 of 2016(India).

99.9% that is the majority of police have the belief that the problem of the street children is an insolvable problem and hence they refuse to pay any heed on that.

3. Sexual Abuse Experiences:-

Girls are often asked for sexual favors on the pretext that they would be released. In most instances, the release does not take place even after giving in to the officer's demand; "The police are always calling us names, threatening us, saying we're whores, trash, homeless, and beating us. Sexual abuse happens too. It happened to me once, here in Jeevanji. Four policemen came and arrested me near City Market. They started taking me to the Central Police Station and brought me here to the park. One of them hit me and I fell down, and he came down on top of me. Another held me down while the policeman raped me. After he raped me, they walked me over to Central Police Station, and just let me go.

4. Harassment Experiences :-

The private guards from the bank also come and harass us all the time. They pull their pistols out and make us come out of the women's restroom. They push us around. They just do it to give us a hard time, to be powerful over us; we're not bothering them at all.

5. Arrest Experiences:-

Five girls were arrested with me. They tied us with rope and made us walk to the station. There were four police. They didn't say anything, just begged.

There are many other instances such as bribery, extortion, and corruption, round ups operations, etc., relating to which the children have given a lot of negative experiences of themselves with the Police and shown the most horrible side of this stakeholder of our Justice System.

It's really important to end this section with some positive experiences of street children with the police in order to examine ways in which to strengthen the destroying network of street children's relationship with the Justice System.

The following positive experience cited by a child of Kenya:-

Some police officers are child friendly and treat children well. At the police cells, food is almost guaranteed. There is a possibility of accessing medical attention while at the police station,

particularly for those who are hurt during ‘mob justice’ or through an accident. Children with criminal tendencies have the opportunity to change. At police cells, children have no access to drugs so there is therefore a possibility of easing or destroying drug habits if the time inside is long. There are some agencies that provide legal service to children who are found at police cells; one can find help from a Good Samaritan or probation officer who can sometimes facilitate training for the children. The police are good because they arrested me and took me to the children’s cell after which I was taken to an approved school where I was trained to knit sweaters.

Thus all the people are not the same and there are some people who are right up there for our prevention, to protect us to provide us justice. Such as- according to NCRB figures, Bihar ranked third just behind Rajasthan and West Bengal in 2017 when 362 boys and 33 girls below 18 years of age were rescued from the clutches of traffickers. This was successfully done by the police officials with the active participation of media.

Moreover, it is not out of place to mention herein the landmark case of Vilagaran Morales v. Guatemala (also known as the Case of the Street Children) that dealt with petition related to the death of five street children. This was the first time in this case the Inter American court referred to the state’s duty to adopt special measures to protect children, basing its interpretation on the International Convention on the Rights of Child. This case clearly establishes the significance of the role of the government, the judiciary, and other agencies in making all efforts to view this problem in all seriousness and curb the peril to bring a new life to the street children and erase the disgrace cast on them in the society.

ISSUE 4: RECENT SITUATION OF STREET CHILDREN ACROSS MAJOR STATES OF INDIA

In this article, we have thrown light on the meaning of street children, types of exploitations they go through, national and international legislation protecting the street children, the role of judiciary and NGO’s in safeguarding the interest of the street children and the act and conduct of the police towards the street children. The conclusion we can draw from the above issues is that the problems of street children have been existing for a long time and despite prevailing legislation and bodies aiming to safeguard the rights of the street children, a positive and optimistic result has not been achieved as of yet. Therefore, this issue will throw light on the very recent situation of the street children along with the statistics in the major states of India.

(4.1)Recent Statistics and Studies

In Lucknow, it was observed that 83.7% of children who belonged to the street, slept at the place where they worked or the site which had hazardous conditions prevailing there. Along with them, children whose family belonged to the streets which were a heavy chunk of 72.1% and rest 41.4% of children living on the street also slept on site. It was observed that these street children did not have particular homes where they could permanently reside; hence they had to stay in the site after the working hours. West Bengal, on the other hand, had a whopping percent of street children sleeping in their workplaces which went up to as high as 97.1%. This stat is as high as it has ever got and that amount of street children residing in their workplaces with the unbearable condition is unendurable. The statistics in Delhi was within promising limit with just 29.1% of street children residing in the workplaces. However, these statistics are never constant and is always fluctuating.

The main objective behind conducting this survey was to examine the socio-economic condition of the street children in the major states of India. The place where this study was carried out was Agra, Delhi, Allahabad, Lucknow, Kanpur, Mumbai, Pune, Kolkata, Nasik, and Mughal Sarai through the census. The main reason why these places were shortlisted because since the past, these places have shown most signs of persisting and prevailing signs of abuse and torture and harsh situations of the street children and from the recent statistics, very little has changed.

These statistics, although very much on the negative side of the spectrum, can help in the rehabilitation process. The importance of keeping these data is that the facts about street children do not come to light and most of the people are unaware of their existence and as to where they live, how they sustain, and what kind of treatment is meted on them on a daily basis. As stated earlier, there are ample laws and legislation protecting these vulnerable children from abuse, torture, child labor, bonded labor and aims at providing them with proper health care, free education and a life full of dignity but none of these are provided to them because no complaints are being registered on their behalf because of lack of awareness.

Several important personnel have raised their concern about migration which is the major reason behind the placement of the street children. These children, once they are on the street, they tend to migrate which, in the end, results in them getting lost or being abducted for exploitations or indulgence in heavy and hazardous works. Hence, the migration of street children is a major concern. Therefore, once the children are on the street or have been living on the streets, the

government should take steps to help them or take them under their shade so that they are prevented from migrating.

The statistics also showed that 61% of boys and 47% of girls of the entire street children did not have a fixed and permanent place to sleep. 15% of children of very tender age from 10 to 14 years did not know their place of birth. When asked the reason behind them sleeping and sheltering at different places, 31.6% stated that they had no particular reason while 24.9% stated that it is because of police.

It was also seen those street children who were involved and indulged in begging and rag picking, 25% of them belonged to an age ranging below 14 years. Moreover, 36.4% of children belonging to the streets were not allowed to participate in economic activities. The children who were involved in begging and rag picking, 42.5%, and 38.7% found these work by themselves. Interestingly, 30% of the children involved in working in roadside stalls and working in small restaurants, found jobs via relatives and family.

The most difficult stats was that a huge amount of these street children, approximately ranging up to 47.3% worked for four to six hours a day with girl children working even longer. The children working as beggars and rag pickers worked for six hours a day and around 16% of the street children involved in construction work worked for as long as eight hours a day. The worst part is these children have not become major yet and are of very tender age. They are working in the most untidy and most hazardous places which can cause several health problems for a stretch of at least five hours a day.

Coming to the amount of earning they make out of such occupation, the numbers are very feeble and poor. 47% of the street children engaged in the above works earn an average of less than rupees 100 per day. The statistics stated that the children, who ordinarily should attend school at the age of 10 to 14 years, could not since they did not have enough money to pay the fees. As high as 62% of children are on streets and out of the total number of children going to school, 57.9% of them dropped out because of the lack of financial stability.

(4.2)Recommendations to improve such statistics

These statistics clearly show the miserable state in which the street children are in. The situation of street children was expected to improvise as years went on as people are made more aware of their

situation and they are the most visible group of people suffering in the streets but things for them has just gone south and nothing has improved. It is clear that merely making people aware of the situation of these children is not enough. Some external steps have to be taken by the government and other organization for the protection of these vulnerable set of people.

Some recommended steps are as follows:-

1. Having an advisory committee at both state and national levels with its members and stakeholders as the government, experts, legal advisors, law enforcers, NGO, other organizations that can urge and advocate the conduct of the street children.
2. A body that will continuously keep a count on the number of street children present so that immediate steps can be taken if there is a decrease in that number.
3. Just like the census, a synonymous data system has to be integrated which provides such percentile statistics so that policies and plans can be initiated.
4. A system of social integration has to be put into force which should aim at bringing or uniting the street children to their families so that they have particular homes to stay and essentials to live upon. If children do not have any families living or due to certain circumstances, they cannot be united, foster homes should be set up for them as a last resort.
5. A dual education system has to be put into force where children, along with interning under companies as an apprentice, should be provided education in schools.
6. Migration has been a major issue behind the student belonging to the streets hence Gram Sabhas should organize Migration Resource Centre's (MRC) which would prevent any kind of precarious migration.
7. As we have read earlier, the reason why major cases of street children are not being registered is because of the police. Moreover, police are one of the main sources from where the street children are subjected to abuse. Therefore, a body has to be appointed who will be authorized to look after the actions of the police and sensitization of the treatment of police towards street children especially in the railway station has to be looked after and before taking any action, police has to comply with every guideline formed for identification of the street children.

8. Since bodies at State and National levels are taken care of, a body at the District level also should be set up to monitor the situation of the street children.

9. Plan centering and counseling of these children in the case of – physical and mental abuse, sexual exploitation, and behavior management.